



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE
United States Patent and Trademark Office
Address: COMMISSIONER FOR PATENTS
P.O. Box 1450
Alexandria, Virginia 22313-1450
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
-----------------	-------------	----------------------	---------------------	------------------

10/551,041

09/27/2005

Kenzo Fukuda

125436

4646

25944 7590 09/17/2008

OLIFF & BERRIDGE, PLC

P.O. BOX 320850

ALEXANDRIA, VA 22320-4850

EXAMINER

SACKEY, EBENEZER O

ART UNIT

PAPER NUMBER

1624

MAIL DATE

DELIVERY MODE

09/17/2008

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

DETAILED ACTION

Election/Restrictions

Restriction is required under 35 U.S.C. 121 and 372.

This application contains the following inventions or groups of inventions which are not so linked as to form a single general inventive concept under PCT Rule 13.1.

In accordance with 37 CFR 1.499, applicant is required, in reply to this action, to elect a single invention to which the claims must be restricted.

Group I, claim(s) 1-6 are, drawn to a process for producing E-3-acyloxyacrylonitrile compound of formula (3).

Group II, claim(s) 7-11 are, drawn to a process for preparing 3-oxopropionitrile compound of formula (I).

Group III, claim(s) 12-16 are, drawn to a process for preparing Z-3-acyloxyacrylonitrile compound of formula (3).

The inventions listed as Groups I-III do not relate to a single general inventive concept under PCT Rule 13.1 because, under PCT Rule 13.2, they lack the same or corresponding special technical features for the following reasons: the process of Group I clearly have different special technical features (different reactants and solvents) than those of Groups II-III and neither of the reactants and solvents of Groups I, II or III define a contribution over the prior art. The various reactants and solvents vary extensively and when taken as a whole result in vastly different compounds. Accordingly, unity of invention is considered lacking and a restriction of the invention in accordance with the rules of unity of invention is considered to be proper.

A telephone call was made to Randi B. Isaacs on 09/06/08 to request an oral election to the above restriction requirement, but did not result in an election being made.

Applicant is advised that the reply to this requirement to be complete must

include (i) an election of a species or invention to be examined even though the requirement be traversed (37 CFR 1.143) and (ii) identification of the claims encompassing the elected invention.

The election of an invention or species may be made with or without traverse. To reserve a right to petition, the election must be made with traverse. If the reply does not distinctly and specifically point out supposed errors in the restriction requirement, the election shall be treated as an election without traverse.

Should applicant traverse on the ground that the inventions or species are not patentably distinct, applicant should submit evidence or identify such evidence now of record showing the inventions or species to be obvious variants or clearly admit on the record that this is the case. In either instance, if the examiner finds one of the inventions unpatentable over the prior art, the evidence or admission may be used in a rejection under 35 U.S.C.103 (a) of the other invention.

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to E. Sackey whose telephone number is (571) 272-0704. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:30 pm.

Art Unit: 1624

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, James O. Wilson, can be reached on (571) 272-0661. The fax phone number for this Group is (571) 273-8300.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the Group receptionist whose telephone number is (571) 272-1600.

EOS

/Bruck Kifle/
Primary Examiner,
Art Unit 1624